

REMARKS

Claims 1-10 are pending in the above-mentioned application. Claims 1-10 are rejected. Based on Applicants remarks reconsideration and further examination is respectfully requested.

More particularly, the Office Action has:

In item 4, rejected claims 1-3, and 6-10 under 35 U.S.C. 103(a) as being unpatentable over Ginter (U.S. Patent 6,427,140) in view of Nakano (U.S. Patent 5,745,109);

In Item 5, rejected claim 4 under 35 U.S.C. 103(a) as being unpatentable over Ginter in view of Nakano and further in view of Kiesel (U.S. Patent No. 4,949,193); and

In Item 6, rejected claim 5 under 35 U.S.C. 103(a) as being unpatentable over Ginter in view of Nakano and further in view of Izumi (U.S. Patent No. 6,157,410).

ITEM 4A - REJECTION OF CLAIM 1

Claim 1 is the independent claim. The Office Action has alleged that the combination of Ginter and Nakano teaches or suggests the limitations of claim 1, which is set forth below.

1. (Currently Amended) A method of delivering, in the form of selectable images, a plurality of auction items of a selected seller to a browser of a client computer system, comprising:

receiving, at an auxiliary server, a request from client browser for a main program; and

delivering the main program to the requesting client browser, the main program being configured to receive seller specific information, and to load and activate one or more modules including a picture displaying module for displaying selectable images, the picture displaying module being configured

to obtain a set of pictures of the selected seller's auction items, based on the received seller specific information,

to moveably display, on the client browser, a set of pictures, showing the selected seller's auction items, and

to receive a user selection of a picture being displayed and to redirect the client browser to an auction item document at an auction site associated with the selected image.

The Office Action has alleged that Ginter and Nakano teach the limitations in claim 1, but that the proposed combination does not disclose the claimed steps in an auction environment. The Office Action further appears to allege that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ginter and Nakano to be used in an auction

environment because the auction environment does not affect the delivering of images to a browser.¹

Applicant respectfully submits that the combination of Ginter and Nakano does not teach or suggest the present invention and that it would not have been obvious, at the time of invention, to have modified the proposed combination to make Applicant's invention.

The Ginter reference describes a system for secure transaction management and electronic rights protection by means of a virtual distribution environment (VDE) that secures, administers, and audits electronic information. Ginter, Col. 2, lines 24-26. Ginter shows in FIG. 2 and describes, Col. 55, line 30 to Col. 56, line 21, the distribution of VDE content to a VDE content user.

The Nakano reference describes a graphical user interface that presents a 3-D image to the user, as shown in FIG. 4A. In one embodiment, the 3D-image has four screen modes, the Video mode, the A/V mode, the Application mode, and screen saver mode. In the Application mode, the Application wall 113 is displayed at the center of the screen. Nakano, Col. 7, lines 33-34. FIG. 6A of Nakano shows four buttons (folders) that are visible in the Application mode. They include Work Center, Reference Library, Game Arcade, and Kid's Land. Nakano, Col. 7, lines 36-38. Clicking a button activates a folder. Nakano, Col. 9, lines 5-11.

Thus, the proposed combination would apparently have added the graphical user interface of Nakano to the VDE system of Ginter. This proposed combination, however, fails to meet the limitations of claim 1. In particular, the proposed combination of Ginter and Nakano fails to teach or suggest the limitation "the main program being configured to receive seller specific information, and to load and activate one or more modules including a picture displaying module for displaying selectable images" or the limitation "the picture displaying module being configured to moveably display, on the client browser, a set of pictures, showing the selected seller's auction items, based on the received seller specific information, and to receive a user selection of a picture being displayed and to redirect the client browser to an auction item document at an auction site associated with the selected image." The proposed combination of Ginter and Nakano discloses no such picture displaying module, as is recited in claim 1.

¹ Applicant has paraphrased the Office Action here, because the actual text on page 3 of the Office Action is unclear. Applicant has made his best guess as to the meaning of the text.

The cited portions of Ginter, FIG. 2, items 108 (electronic content highway), 112 (VDE content user) and 116 (financial clearing house and VDE administrator), and paragraphs 856, 1220, 170, and 188 are unrelated to Applicant's invention.

FIG. 2 shows an abstract model of the distribution, over an electronic highway, of VDE content, which is subject to rules and controls provided by a VDE rights distributor. Ginter, Col. 55, lines 30-48. There is no indication in Ginter that this content is the picture displaying module of the present invention, that there is a client or a server, or that there is a client with a browser. Thus, Ginter does not teach or suggest, in the cited figure, alone or in combination with Nakano, the limitations of claim 1.

The cited paragraph 856 (Ginter, Col. 197, line 41) is found under the section "Fingerprint." According to the Ginter specification "FIG. 58c shows an example of a "fingerprinting" procedure 2160 that inserts into released content "fingerprints" 2161 that identify the object and/or property and/or the user that requested the released content and/or the date and time of the release and/or other identification criteria of the released content." The cited paragraph 856 describes an alternate means of fingerprinting, such as modifying an image or moving image. This operation is unrelated to the present invention and the "moving image" is not identifiable with the moveable display of the present invention. Applicant's invention is not encrypting any content and is not installing any fingerprints into the content. Applicant's picture displaying module moveably displays a set of pictures that show a selected seller's auction items. The cited paragraph of Ginter does not show this. Thus, Ginter does not teach or suggest, in the cited figure, alone or in combination with Nakano, the limitations of claim 1.

The cited paragraph 1220 (Ginter, Col. 258, line 45) states that the content in Ginter includes "text, formatted text, pictures, moving pictures, sounds, computer software, multimedia, electronic games, electronic training materials, various types of files, and so on, *without limitation*." Nothing in this description meets the limitation that a main program receives seller specific information and loads a picture displaying program nor the limitation that the picture displaying program obtains a set of pictures of the selected seller's auction items, based on the received seller specific information, and moveably displays them. Ginter only describes a completely generic content distribution scheme in which the content is embedded in a rights-controlled object. Ginter, Col. 58, line 32 to Col. 59, line 29, Col 254, lines 46-47. Applicant

fails to understand the grounds on which a completely generic distribution of content teaches the specific limitations recited in claim 1. Thus, Applicant submits that Ginter does not teach or suggest, in the cited paragraph, alone or in combination with Nakano, the specific limitations of claim 1.

The cited paragraph 170 (Ginter, Col. 79, line 23) describes a portion of FIG. 10 which is an example of a software architecture for a Rights Operating System. The Redirector 684 is a module in the operating system that allows non-VDE aware applications to access VDE objects and functions. Ginter, Col. 82, lines 27-30. Applicant's invention is unrelated to such a redirector module. The limitation "to redirect the client browser to an auction item document at an auction site associated with the selected image," in Applicant's claim, relates to client browser accessing an auction item document at the auction site when an image is selected. The redirection in Ginter is unrelated to the accessing of an auction item document by a client browser. Thus, Ginter does not teach or suggest, in the cited paragraph, alone or in combination with Nakano, the limitations of claim 1.

Paragraph 188 (Ginter, Col. 82, line 58) of Ginter describes an additional aspect of the redirector 684, which is that some functions of a VDE aware application that invoke "other OS functions" may be redirected into a VDE function call. Again, such a redirector module is completely unrelated to Applicant's invention. Applicant's invention has no such function. Thus, Ginter does not teach or suggest, in the cited paragraph, alone or in combination with Nakano, the limitations of claim 1.

The Office Action has further alleged that Nakano teaches the limitation "to receive a user selection of a picture being displayed and to redirect the client browser to an auction item document at an auction site associated with the selected image." Applicant submits that Nakano does not teach this limitation because Nakano does not redirect a client browser to an auction item document at an auction site. The cited portion of Nakano, FIG. 7, item 113, shows the Application wall, as described above, with the buttons arranged in a matrix. Nakano, Col. 8, lines 49-53. Selection of one of these buttons takes the user to the associated function. Nothing in Nakano suggests that selecting one of the buttons directs the user to an auction site document describing the selected image. The generic selection of a button in Nakano does not meet the

specific limitation in claim 1. Thus, the proposed combination of Ginter and Nakano does not teach or suggest the limitations of claim 1.

Furthermore, Applicant contends that there is no teaching or suggestion to combine the teachings of Ginter with those of Nakano. Not only are the two references in completely different fields of art, but there is no suggestion in Nakano to adapt the user interface described therein to a secure transaction management and electronics rights protection system and there is no suggestion in Ginter for a user interface such as that of Nakano. The only reference in Ginter to a Graphical User Interface concerns an application program that is unrelated to the teachings of Ginter. Ginter, Col. 265, lines 55-59. Thus, Applicant does not see any evidence, either from the references themselves, the knowledge of one of skill in the art, or the nature of the problem being solved, of a teaching or suggestion to combine the teachings of Ginter with the teachings of Nakano.² Thus, not only does the proposed combination of Ginter and Nakano not teach or suggest Applicant's invention as recited in claim 1, no person of skill in the art, would have made, at the time of the invention, the combination of Ginter and Nakano.

Finally, Applicant objects to the use of Ginter and Nakano as both references are non-analogous art. As mentioned above, not only is the cited art not in the field of Applicant's invention, neither piece of cited art is reasonably pertinent to the problems being solved by Applicant's invention. Those problems relate to moving back and forth among auction documents at a computerized auction site and the lack of seller-related listings at such a site, as explained in Applicant's specification. Neither Ginter nor Nakano is concerned with solving these problems. Therefore, neither Ginter nor Nakano is pertinent art that can be used to construct an obviousness rejection.³

ITEM 4B - REJECTION OF CLAIMS 2-3

Regarding claims 2-3, the Office Action has alleged that the rejection of claim 1 applies and that the proposed combination teaches the limitations recited in those claims. Applicant submits that claims 2 and 3 are at least patentable because they depend from claim 1. Additionally, the proposed combination of Ginter and Nakano does not teach the limitation "wherein the step of receiving a request from a client browser for a main program includes receiving the request

² Brown & Williamson Tobacco Corp. v. Phillip Morris Inc. 56 USPQ2d 1456 (Fed. Cir. 2000); Teleflex Inc. v. Ficosa North Am. Corp., 63 USPQ2d 1374 1387 (Fed. Cir. 2002).

³ In re Oetiker, 24 USPQ2d 1443 (Fed. Cir. 1992).

from an auction item document obtained from an auction site,” as recited in claim 2, because the proposed combination does not teach that a request can originate from a document or from an document obtained from an auction site. The proposed combination does not teach the limitation “wherein the set of pictures is displayed on the auction item document obtained from the auction site,” as recited in claim 3, because the proposed combination does not contemplate an auction item document obtained from an auction site or pictures of seller related items being displayed on the auction items document. The cited portion of Ginter, FIG. 2, item 112, refers to a VDE content user and shows bills being received from a VDE administrator. Such information cannot be identified with the item description information being received from the auction site.

Applicant also objects to the characterization that claim 2 or 3 recites “receiving something from somewhere.” Applicant submits that the limitations in claims 2 and 3 are specific and that “an auction site” is not non-functional descriptive material in the claim that can be ignored.

Applicant’s invention is directed to an improvement in the operation of a site at which auctions are conducted. Therefore, the proposed combination of Ginter and Nakano does not teach or suggest the limitations of claims 2 or 3.

ITEM 4C - REJECTION OF CLAIMS 6 AND 8

Regarding claims 6 and 8, the Office Action has alleged that Nakano teaches the limitations of those claims. Applicant submits that the proposed combination of Ginter and Nakano does not teach or suggest the limitations of claims 6 and 8 at least because the proposed combination does not teach or suggest the limitations of claim 1 from which claim 6 and 8 (ultimately) depend. In addition, Applicant submits that Nakano does not teach or suggest the limitation “wherein the main program is configured to load and activate a categories module that maintains a set of categories available on the auction site from the specified seller,” recited in claim 6, because Nakano does not contemplate a categories module that maintains a set of categories available on the auction site from the specified seller. The cited portion of Nakano, FIG. 5, item 112, shows when the A/V wall is displayed at the center of the simulated 3D display. Furthermore, the categories referred to Nakano cannot be identified with the categories recited in Applicant’s invention. Nakano’s categories, shown in FIG. 3, are categories of applications or functions. Applicant’s categories are related items being auctioned at an auction site and having a common seller. Applicant also submits that Nakano does not teach or suggest

the limitation “wherein the main program is configured to load and activate an item links module that maintains a set of item links for each category in the set of categories available on the auction site from the specified seller,” because Nakano does not contemplate an item links module or an item links module separate from the categories module. In fact, there are no such links, as that term is used in the present invention, in Nakano. Therefore, the proposed combination of Ginter and Nakano does not teach or suggest the present invention, as recited in claims 6 and 8.

ITEM 4D - REJECTION OF CLAIMS 7 AND 9

Regarding claims 7 and 9, the Office Action has alleged that Nakano teaches or suggests the limitations therein. Applicant submits that the proposed combination does not teach the limitations of claims 7 and 9 at least because the combination does not teach the limitations of claim 1 from which claims 7 and 9 ultimately depend. In addition, Nakano does not teach the limitation “wherein the set of categories available on the auction site from the specified seller is stored on the auxiliary server,” as recited in claim 7, because neither Nakano nor the proposed combination contemplates a set of categories available from an auction site from a specified seller or the use of an auxiliary server. Also, Nakano does not teach the limitation “wherein the set of item links available on the auction site from the specified seller is stored on the auxiliary server,” as recited in claim 9, because neither Nakano nor the proposed combination contemplates the use of a set of item links, an auxiliary server, or their storage thereon. Therefore, the proposed combination of Ginter and Nakano does not teach or suggest the present invention, as recited in claims 7 and 9. The cited portion of Nakano, FIG. 12, shows a number of icons displayed, each corresponding to application software registered for the folder. Nakano, Col. 10, lines 65-67. These icons are unrelated to the limitation in claim 9. They are not item links, as that term is used in the present invention and they are not stored on an auxiliary server. Therefore, the proposed combination of Ginter and Nakano does not teach or suggest the present invention, as recited in claims 7 and 9.

ITEM 4E - REJECTION OF CLAIM 10

Regarding claim 10, the Office Action has alleged that Nakano teach or suggests the limitation therein. Applicant submits that neither Nakano nor the proposed combination teaches or suggests the limitation “wherein the set of item links includes an item name associated with

each item link,” as recited therein, at least because neither Nakano nor the proposed combination teaches or suggests the limitations of claim 1, from which claim 10 ultimately depends. The cited portion of Nakano, FIG. 12, “KIDS LAND” cannot be identified with the item name associated with the item link, as recited in claim 10, because KIDS LAND is the name of a button, which leads to a folder in which educational software is registered. Nakano, Col. 7, lines 42-43. This button cannot be identified with the item links and item names as recited in claim 10, because the item names and links are specific to a category of related items having a common seller, the latter not being contemplated by Nakano.

ITEM 5 - REJECTION OF CLAIM 4

Regarding claim 4, the Office Action has alleged that claim 4 is unpatentable over the combination of Ginter and Nakano, in light of Kiesel. The Office Action alleges that it would have been obvious to one of ordinary skill at the time of the invention, to combine Ginter and Nakano with Kiesel to suggest a step of displaying a picture at a different speed.

The Nakano reference describes a screen saver mode in which a moving picture image is displayed in Video wall 111. Nakano, Col. 6, lines 2-4. Applicant’s scrolling of pictures is unrelated to a moving picture image in screen saver mode. Applicant’s scrolling of pictures provides interactive control of the display of pictured auction items in complete contrast to the displaying of a moving picture as a screen saver, in which there is no interactive control.

The Kiesel reference describes an apparatus for composing video material. Kiesel, Col. 1, lines 9-10. One aspect of the apparatus is the scrolling of pictures on the passive displays. A control wheel 74 is operated to effect the scrolling of the pictures among the passive displays 42-68, of FIG.1 and FIG. 3. Kiesel, Col. 9, lines 33-35, Col. 11, line 39-Col. 14, line 24. The number of detents past which the wheel is rotated determines the number of screen positions by which the pictures are advanced. Kiesel, Col. 14, lines 46-56. Nothing in the description of Kiesel teaches or suggests the limitations, “wherein the picture displaying module is configured to moveably display the set of pictures at a controllable speed; and wherein the controllable speed is controlled by a current position of a pointing device connected to the client computer system,” recited in claim 4. The speed of scrolling the pictures in Kiesel is not controlled by any pointing device connected to a client computing system. Also, in Kiesel, the scrolling of the pictures is at a constant, predetermined speed, which is set, in part, by the number of steps, to be used in the

scrolling. Kiesel, Col. 12, lines 6-11, lines 20-23. Kiesel does not contemplate variable speed scrolling, as is recited in claim 4. Finally, Kiesel contemplates that the scrolling of pictures occurs across multiple screens. Kiesel, FIG. 1, items 42-68. In Applicant's invention, the pictures scroll on the client's computer screen. Applicant's invention does not scroll pictures across multiple displays. Therefore, the combination of the Kiesel reference with the proposed combination of Ginter and Nakano fails to teach Applicant's invention at least because the proposed combination fails to teach the limitations of claim 1 and further because the proposed does not teach the limitations recited in claim 4.

Applicant also submits that there is no teaching or suggestion to combine the Kiesel reference with Ginter and Nakano. There is no suggestion in Nakano that smooth scrolling of pictures for video editing is needed, as Nakano is only interested in the details of a 3D graphical user interface and not in video editing of moving picture segments. There is no suggestion in Ginter of any need for smooth scrolling of pictures for video editing, as Ginter is only concerned with the distribution of information in a rights-protected container. Therefore, Applicant does not see any reason that one of skill in the art, having before him Ginter and Nakano, would have turned to the teachings of Kiesel.

ITEM 6 - REJECTION OF CLAIM 5

The Office Action has rejected claim 5 as being unpatentable over Ginter in view of Nakano and further in view of Izumi. The Office Action has alleged that, even though Ginter and Nakano do not expressly disclose that moving images are displayed horizontally in a computer's window, Izumi would have suggested the limitations "wherein the client computer system includes a display output device and the client browser occupies a graphical window on display output device; and wherein the picture displaying module is configured to moveably display the set of pictures horizontally in the client browser graphical window," as recited in claim 5.

Applicant submits that claim 5 is patentable over the proposed combination, at least because the proposed combination of Ginter and Nakano does not teach the limitations of claim 1 and further because the proposed combination does not teach or suggest the limitations of claim 5. The Izumi reference describes an apparatus and method for extracting still frames of compressed video data from digital moving images, storing the frames as data files, and displaying the frames with the correct aspect ratio on a monitor connected to the computer.

Izumi, Col. 1, lines 10-20. The cited portion of the Izumi reference, the Abstract, fails to describe the limitation “moveable display the set of pictures horizontally in the client browser graphical window. Instead, the discussion in the cited Abstract, refers to changing the number pixels in the horizontal or vertical direction of a display screen by means of signal processing to avoid distortion caused by the different aspect ratios between television standards, such as NTSC, and computer monitor standards. Changing the number of horizontal or vertical pixels is unrelated to the limitations recited in claim 5. Thus, the proposed combination fails to teach or suggest the present invention as recited in claim 5.

Furthermore, Applicant can see no reason to combine the Izumi reference with the Ginter and Nakano references. There is nothing in the Ginter or Nakano reference that suggests that there is a need for an aspect ratio change. In Nakano, the screens used to display images for editing are screens that are scanned with an aspect ratio that is correct for the video standard being used. There is no need to convert the pictures on the screens in Nakano to a computer screen. In Izumi, there is nothing that suggests a need for editing sequences of video frames or distributing information in rights-protected containers. Therefore, Applicant does not see and clear and particular suggestion for combining the art as the Office Action has suggested.

For these reasons, and in view of the above amendments, having responded to each and every ground of rejection, Applicant believes this application is now in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,



Anthony Diepenbrock III, Esq
Attorney/Agent for Applicant(s)
Reg. No. 39,960

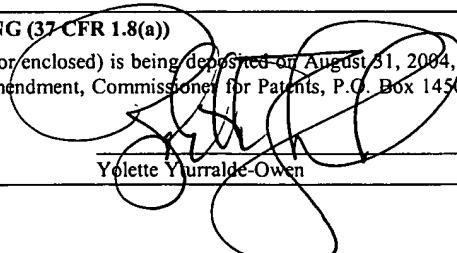
Dated: August 31, 2004

Dechert LLP
Customer No. 37509
Tel: 650.813.4856

CERTIFICATE OF MAILING (37 CFR 1.8(a))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited on August 31, 2004, with the U.S. Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450.

Date: August 31, 2004



Yvette Yurralde-Owen